

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

ANTHONY WRIGHT,

Plaintiff,

v.

STATE OF MINNESOTA, MINNESOTA
DEPARTMENT OF CORRECTIONS, TOM
ROY, COMMISSIONER, STEVE HAMMER,
WARDEN, CHRIS PAWELK, ASSOCIATE
WARDEN, MARY MCCOMB, ASSOCIATE
WARDEN, REGINA STEPNEY,
ASSOCIATE WARDEN, DARRYL
GOEBEL, ASSOCIATE WARDEN,
RICHARD NEURURER, MATHHEW
ANDERSON, JONATHAN SNELL,
RUSSELL JOHANNSEN, MICHAEL
SLUSHER, BLYTHE CRISWELL,

Defendants.

Case No. 16-cv-2824 (DWF/HB)

REPORT AND RECOMMENDATION

Plaintiff Anthony Wright commenced this action by filing a complaint seeking relief under 42 U.S.C. § 1983. [Doc. No. 1.] Wright did not pay the required filing fee for this case, but instead filed an application seeking leave to proceed *in forma pauperis* (“IFP”). [Doc. No. 2.] In an order dated September 30, 2016, this Court required Wright to pay the initial partial filing fee within twenty days, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute under Federal Rule of Civil Procedure 41(b). [Doc. No. 3.]

The deadline has now passed and Wright has not paid the required filing fee. Instead, in a document titled “Motion Updating the Court,” Wright stated that he has decided to file his lawsuit at a later date. [Doc. No. 4.] Accordingly, this Court now recommends, in accordance with its prior Order, and consistent with Wright’s intention not to proceed with this case, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: October 25, 2016

s/ Hildy Bowbeer
HILDY BOWBEER
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in LR 72.2(c).

Under Advisement Date: This Report and Recommendation will be considered under advisement 14 days from the date of its filing. If timely objections are filed, this Report and Recommendation will be considered under advisement from the earlier of: (1) 14 days after the objections are filed; or (2) from the date a timely response is filed.